



Legislative
Research
Council

MINUTES

Department of Agriculture Agency Review

**First Meeting
2005 Interim
June 13, 2005**

**Room 412
State Capitol Building
Pierre, South Dakota**

Monday, June 13, 2005

The first meeting of the interim Department of Agriculture Agency Review Committee was called to order by Representative Justin Davis, Chair, at 8:30 a.m. on Monday, June 13, 2005, in Room 412 of the State Capitol Building in Pierre, South Dakota.

A quorum was established with the following members answering the roll call: Senator Clarence Kooistra (Vice-Chair); and Representatives Thomas Brunner, Justin Davis (Chair), Cooper Garnos, Gerald Lange, Ryan Olson, David Sigdestad, Larry Tidemann, and Mike Vehle.

Staff members present included Aaron Olson, Fiscal Analyst, and Reta Rodman, Legislative Secretary.

(Note: All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.)

Chair Remarks

Representative Justin Davis, Chair, welcomed everyone to the meeting and asked them to be thinking about July 13th as the next meeting date. He also advised that the committee would be asking questions after each division director had completed their presentation.

Vice Chair Remarks

Senator Clarence Kooistra, Vice Chair, said that he would like the committee to look at some of the programs as he is concerned about the growth of the department. He concluded his remarks by stating that possibly there would be cleanup legislation at the end of the interim committee meetings and would like to get something conclusive out of the review process.

Historical Perspective of the Review Process

Mr. Reuben Bezpaletz, Chief Analyst for Research and Legal Services, Legislative Research Council, reviewed an outline of a typical study plan for interim sunset committees, (document

was previously mailed to the committee). According to Mr. Bezpaletz, program expansion was widespread during the Kennedy and Johnson administrations. The sunset process examines why a particular agency exists, what it does, and whether it should continue to do that job. Mr. Bezpaletz noted that a typical agency review includes several elements including an initial presentation by the department being reviewed, a review of all applicable laws and regulations, and a segment devoted to taking testimony from those who have worked with the department.

Mr. Bezpaletz stated that the review committee should be looking at some sort of work product in writing with recommendations being made from the information they received during the review process. In his final remarks, he stated that a tour of the agency is an excellent idea as it creates morale building for the employees of that agency. **Representative Lange** requested from Mr. Bezpaletz a report card showing the measured success of the review committee.

Department of Agriculture Presentation

Mr. Larry Gabriel, Secretary of Agriculture, introduced the various employees and their functions within his department, and stated that the **Deputy Secretary of Agriculture, George Williams**, would also share in the agriculture presentation. Secretary Gabriel stated that the sunset process gives the agency an opportunity to plan for the future and review the laws that affect their department. He said that the laws are permissive, but if you want the programs to move ahead and benefit the people of South Dakota, then the laws are necessary.

Mr. Williams, Deputy Secretary of Agriculture, distributed a handout entitled "Department of Agriculture, Budgeted FTE, Budgeted Funding, and Budgeted Funds by Source" (**Document #1**) and a handout entitled "Office of the Secretary, Budgeted FTE, Budgeted Funds by Source, and Budgeted Funding" (**Document #2**).

Secretary of Agriculture, Larry Gabriel, informed the committee that individuals may go to their web site to read all news pertaining to agriculture. This web site is updated on a daily basis.

Senator Kooistra displayed concern that the department no longer has a director in the Office of Ag Policy who develops policy statements, and questioned how they do come up with policy statements. Secretary Gabriel responded in saying that he works with the Office of Agriculture Policy's research staff along with the Governor to establish policy statements, and rarely is there a policy statement where 100% approval is received by the public. At this time they are not recruiting for an Office of Ag Policy Director since there is no need for that person. However, he does have an individual on staff who writes grants for the department.

Mr. George Williams, Deputy Secretary of the Department of Agriculture, told the committee that prior to being Deputy Secretary he was policy analyst for the department. His position makes sure that the divisions carry out the visions and plans of the Secretary of Agriculture. His work also includes overseeing special projects such as: prairie dog issues, drought task force, West Nile, bio-terrorism, the Certified Beef Program, and foreign animal issues.

Representative Garnos asked what role does the Department of Agriculture take in issues of prices, trade, CAFTA and NAFTA and what do you foresee as the overall opinion about the trade issue and how it affects South Dakota. Secretary Gabriel responded that he takes the position of supporting CAFTA. The challenge is to make free trade fair trade. Secretary Gabriel said he will not support NAFTA because the NAFTA agreement is not being followed properly.

Representative Olson questioned what role the Department of Agriculture has been playing in the Certified Beef Program. Secretary Gabriel responded that it is taking a lot longer to write the rules than originally planned. He reported that the program needs to be in place when the cattle prices go down. Representative Vehle stated with regards to the Certified Beef Program that South Dakota must be mindful of the risks to the Certified Beef Program if a disease breaks out in South Dakota from cattle outside of the program. Secretary Gabriel acknowledged that there is always some risk any time you do any identity program, and at a given point the Department of Agriculture should not administer the beef program and should be handed over to someone else.

Secretary Gabriel said the mission statement is: to promote, protect and enhance agriculture in South Dakota. Representative Tidemann asked if the mission is appropriate, still important to the people of South Dakota, and has it changed over time. Secretary Gabriel responded by stating that the mission is broad but focuses on everything that they need to do, and the issues haven't changed all that much.

Mr. Kevin Fridley, Director of Agriculture Services, distributed a handout entitled "Information Sheet – South Dakota Department of Agriculture – Division of Agricultural Services" (**Document #3**), and handout entitled "South Dakota Department of Agriculture – Division of Agriculture Services – Statute and Rule Index" (**Document #4**). Mr. Fridley stated that there are two offices within the division called Agronomy Services and Plant Protection & Dairy. He said the Office of Agronomy Services is responsible for the licensing, permitting, and compliance of products, companies and producers in South Dakota to allow the distribution of: pesticides, fertilizer, feed, animal remedies, soil amendments, seed, nursery and apiary. He said there are the following programs under the Office of Agronomy Services: feed & animal remedy, fertilizer & soil amendment, nursery, seed, apiary, pesticide, pesticide records, and rodent control.

The Office of Plant Protection is responsible for licensing, compliance and technical services for dairy processing, agribusinesses, and producers who are engaged in production agriculture in South Dakota. Mr. Fridley said the mission statement is : "to promote, protect and enhance agriculture in South Dakota". The programs under the plant protection office is: weed & pest and plant protection. Representative Vehle questioned how successful is the control of the thistle beetle with Mr. Fridley responding that they are very controlled. Representative Olson asked if there is funding from the Department of Agriculture to help the counties with the weed and pest control. Director Fridley advised that there is approximately \$300,000 in grant money available annually to the counties under this program. Senator Kooistra asked who does the enforcement of the weeds and pests. Mr. Fridley stated that the Department of Agriculture does take an active part in the enforcement role; however, the

counties take the first step. Secretary Gabriel reported that originally there were four FTE's for enforcement but the appropriations committee did away with those positions.

Mr. Fridley explained the programs under the Office of Dairy & Egg which includes: grade A dairy inspection, manufacturing farm inspection, and dairy plant inspection. He also explained that the egg program purpose is to maintain an egg program that ensures the consumer a safe and wholesome product with funding from the General Funds in the amount of \$30,185. The Department of Public Safety is responsible for the inspection of the egg program.

Representative Tidemann asked Mr. Fridley if there are any statutes or legislation that needs to be cleaned up within his division. He stated that they have spent a lot of time reviewing the statutes and have found some that needs to be updated.

After a discussion concerning adequate training, Secretary Gabriel interjected that he is comfortable in the knowledge that his personnel are adequately trained should an outbreak of a disease occur. He also stated that South Dakota is very lucky to have Sam Holland as the state's veterinarian. He is very highly regarded in his field of expertise and has an aggressive plan should any disaster occur. Concern was expressed by members of the committee on the possibility of a terror attack using food; however, Secretary Gabriel does not feel this is an issue since the prevention is so basic by simply washing the food and cooking it properly. He indicated that the most likely area of concern would be in the livestock area which is why the Certified Beef Program is vital to the system of identifying the animals in South Dakota. Secretary Gabriel said there is a substantial amount of money allocated in the training programs at all levels of government.

The Department of Agriculture Review Committee meeting recessed at 12:10 p.m. for lunch and reconvened at 12:50 p.m.

Mr. Jon Farris, Director of the Division of Agricultural Development, distributed a handout entitled "South Dakota Department of Agriculture – Division of Agricultural Development" (**Document #5**), and an additional handout entitled "Division of Agriculture Development – Budgeted FTE – Budgeted Funds by Source – Budgeted Funding" (**Document #6**).

Mr. Farris said the funding for his division is received from three sources: Rural Rehabilitation Funds, General Funds, and Federal Funds. He described the Rural Rehab Fund as funds provided to South Dakota by the Federal Government starting in 1937, and the control of the funds was turned over to the Department of Agriculture in 1951. Mr. Farris stated that a use agreement exists between the Department of Agriculture and USDA to ensure that the state is meeting the agreement with specific criteria of what the funds can be used for. The funds are designed to assist farmers, or projects benefiting farmers in obtaining financing through loans or guarantees.

Director Farris said that SDCL 1-16E was amended in 1995 and the Value Added Finance Authority was created. In 1997 it was more specifically defined. This program allows the Division of Agriculture Development to provide a tax exempt bonding program for the Beginning Farmer Bond Program and the Agribusiness Bond Program. These programs allow

the borrower to receive a lower interest rate on their project which assists them in acquiring the necessary financing to cash flow that project.

Mr. Farris indicated that in 2002 General Funds were added to the Division which was used to expand one marketing person, and additional expansion of General Funds occurred in 2004 which allowed an addition of one person to assist in the marketing of crop and livestock programs. Secretary Gabriel reported that the South Dakota Ag Producers Ventures and the Department of Agriculture could possibly both be lending money on the same project. At any given time, due to circumstances, a loan could turn into a grant if the business is unable to repay the loan. Some members showed concern over the fact that the South Dakota Department of Agriculture could be writing off loans.

Director Farris advised that there are finance/loan programs available and each has a specific set of eligibility requirements and loan limits. These are the programs: cooperative stock guaranty, value added livestock underwriting (VALU) guaranty, rural development loan participation, conservation tillage loan, and livestock loan participation. The youth finance programs are: building our South Dakota rural communities (BOSDRC) grants, junior livestock guaranty, agribusiness bond program, beginning farmer bond program, livestock nutrient management program, and the value-added agribusiness relending program. Representative Vehle questioned if the underwriting of direct loans were dependent upon banks with Mr. Farris responding that the Agribusiness Relending Program is the only program that his division does any underwriting, and the banks do the underwriting for the other projects. Representative Vehle also questioned how producers' losses are handled. Mr. Farris said that the losses come out of the principal being loaned out. There are 1% to 2% losses annually. The losses are tracked in a budget book, and use the audit process.

A brief discussion was held among the committee members, Secretary Gabriel and Director Farris regarding the use of anaerobic manure digesters in any project. It was determined that digesters are very expensive, and the economics makes it not suitable for the small producer, but the larger producers may benefit from the purchase of such equipment.

Ray Sowers, Director, Resource Conservation & Forestry, distributed a handout entitled "South Dakota Department of Agriculture – Division of Resource Conservation and Forestry – State Legislature Agency Review" (**Document #7**).

Mr. Sowers read the mission statement as follows: The mission of the Division of Resource Conservation is to conserve, protect, improve, and develop the natural resources of South Dakota for its citizens. He stated the purpose of the Division is to conserve, improve, protect, develop and increase trees, forests, wood, and timber products on state lands; and, to assist other agency, groups, and individuals to manage their tree resources.

Mr. Sowers said that originally the Division of Forestry and the position of State Forester were created within the Department of Game Fish and Parks in 1945. Due to an increase in federal funding in 1978, the division personnel peaked in 1980 with 92 FTEs. In 1995, there was a fiscal crisis in state government when gaming was ruled unconstitutional which caused an immediate need to cut state government to make up for lost gaming revenues; therefore, the number of employees was drastically reduced.

He discussed the State Conservation Commission with the committee members advising that it is a nine-member citizen commission appointed by the Governor to oversee the development of the State Soil and Water Conservation Plan.

Director Sowers said that the following cost/share programs make up the majority of the work performed by the division: the Forest Stewardship Program (FSP), the Urban & Community Forestry Program (UCF); the Forest Health Program (FHP); the Economic Action Program (EAP); the Forest Legacy Program (FLP); and, the Forest Land Enhancement Program (FLEP). The division at the present time employs 20 FTEs. Under the Urban & Community Forestry Program the funding is a 50/50 match. This program was created to promote the utilization of wood products and make sure the forest service is managing the forest and producing a healthy forest. Representative Brunner questioned the director if they are getting anywhere with the National Forest Service, and he responded that yes, they have been successful in moving them in the right direction. Secretary Gabriel stated that one of the things you have to have when you deal with federal agencies is "patience".

Mr. Sowers distributed a handout entitled "Black Hills – Pine Bark Beetle Epidemic" (**Document #8**). In his presentation he said that beetle epidemics are normally stopped by nature and South Dakota needs really cold weather to get rid of them. He advised at the present time we are in the 3rd largest epidemic in history and it could go to be #1. Secretary Gabriel stated that some individuals feel that nature has to solve the problem, and homes should not have been built in the forest. The Healthy Forest Initiative has helped but it is aimed at the fire issues and does not address a healthy forest. Mr. Sowers stressed that management does work. He told the committee he is concerned about the ash borer insect in Michigan, and there is concern that it will be getting into South Dakota by the firewood that is transported by campers to our campgrounds. Mr. Sowers said that 35% of our urban trees are ash and 30% native hardwoods is ash. Representative Brunner asked if the division has the authority to stop people from bringing firewood into the state. Director Sowers responded by stating that it is going to be slow; we need to implement our own programs for such problems as it is hard to enforce, and these insects can live in the wood for two years. Secretary Gabriel said that a change in the law would need to be made. There are various insects that can get into trees and cause extensive damage with only a few solutions to stop such epidemics.

Mr. Sowers distributed a handout entitled "Soil and Water Conservation – Program Highlights" (**Document #9**). This program is funded by revenues from the un-refunded portion of motor fuel taxes collected for non-highway uses. He said that the State Legislature capped deposits to the Conservation Fund at \$1.5 million dollars per year. The funds are used to provide a cost share grant to South Dakota conservation districts.

Mr. Steve Hasenohrl, Division of Wildland Fire Suppression, distributed a handout entitled "Division of Wildland Fire Suppression – Budgeted FTE – Budgeted Funding – Budgeted Funds by Source" (**Document #10**), and handout entitled "Legislative Audit 2005" (**Document #11**). This division was created as a result of the Jasper Fire in the Black Hills in 2002. Mr. Hasenohrl stated that their sole responsibility is wildland fire suppression, fuel mitigation, prescribed burning and wildland fire training, and answer directly to the Secretary of

Agriculture. He stated that the division is an aggressive state fire organization with a philosophy that a rapid and sustained initial attack on the wild fire is the key to keeping a fire small and keeping the cost down. This division became a stand alone division in 2002.

Mr. Hasenohrl reported that the department pays for the first 40 hours of fire fighting with all costs being reimbursable. He read the vision statement as: Increase the fire attack capabilities of the SD Division of Wildland Fire Suppression within the Black Hills Forest Fire Protection District. Provide for a rapid mobilization of fire resources to keep fires small. The strategic plan was written for a five year time frame and represents growth that will allow the division to maintain its maximum efficiency levels and meet the fire challenges present in South Dakota.

Ms. Susan Hayward, State Fair Manager, distributed a handout entitled "Interim Agency Review Committee – Department of Agriculture – South Dakota State Fair" (**Document #12**). Ms. Hayward informed the committee that the State Fair is under the control of the Secretary of Agriculture. The State Fair was created to teach our youth about agriculture. Ms. Hayward emphasized that in the past, fairs were a service to a community where people could get together; however, now it has become more of a business atmosphere. The State Fair was established in 1885. She said the functions of the state fair were: 4-H & FFA programs, develop outstanding young people, build confidence and strong ethics, and get more public involvement. In the summer of 2000 the fair dates changed, and for 3 years it did not appear to be successful change. Ms. Hayward stated that the state fair should be a grand event and the last fair of the year. The challenge now is to get people to come to the State Fair again. She explained to the committee that the freedom stage is an excellent source to get people through the gates. The day sponsors will cover the freedom stage expense. This year there will be entertainment for six nights, and once the patrons get through the gate it affects the grandstand, food and drink, and revenues.

Ms. Hayward advised that a new event will be taking place this year, and that is championship bull riding. The education programs last year were very successful and will continue this year with sciences and math being included. She is very excited about the events being placed on the agenda this year such as: made in SD day, recreation day, semi & bike races, education programs, bull riding, and Kachunga & the Allegator.

In summary, she invites all South Dakotans to come to the State Fair and enjoy the time attending the various activities provided.

Secretary Gabriel told the committee that a consultant had been hired to do a study of the State Fair, and he had the following suggestions:

1. Since the machinery section had dwindled, let it die,
2. Make "South Dakota Made" the vocal point of the fair,
3. No PRCA rodeo this year but have championship bull riding in its place.

There was concern expressed by the committee members on the safety to the fairgoers with regards to the deterioration of the State Fair buildings. Ms. Hayward assured the committee that risk management had made a tour of the buildings, and any problems would be handled

before the opening day of the fair. She also stated that a hazard report had been done on all the trees on the fairgrounds, and as with the buildings, any problems would be taken care of.

Secretary Gabriel advised that the fair would encumber two week-ends making it 8 days long. Representative Brunner asked what the timeline was when the Legislature would no longer be required to put money into the Fair, and when was it going to make money. Secretary Gabriel responded by advising that possibly having the fair be self-sustaining is too lofty of a goal. However, if they could sign up one more major event before the fair, then the fair would be in excellent financial shape.

Staff Directives

Representative Davis, Chair, told the committee that if they had any directives for the LRC staff to contact Aaron Olson with their suggestions. He also advised that at the next meeting there would be public testimony in the afternoon with the morning reserved for additional questions posed to the Department of Agriculture's personnel.

Representative Tidemann asked the agency to provide a copy of the State Fair 3 year plan to the committee. Senator Kooistra asked the agency to bring some additional information regarding the farm mediation program to the next meeting.

Determination of Next Meeting Date

The next meeting date has been scheduled for Wednesday, July 13, 2005 at 8:30 a.m.

SENATOR KOOISTRA MOVED, SECONDED BY REPRESENTATIVE BRUNNER, THAT THE DEPARTMENT OF AGRICULTURE AGENCY REVIEW COMMITTEE ADJOURN. MOTION CARRIED UNANIMOUSLY ON A VOICE VOTE.



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